United Nations S/2004/253

Security Council

Distr.: General
29 March 2004

Original: English

Letter dated 22 March 2004 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 14 January 2004 (S/2004/38). The Counter-Terrorism Committee has received the attached fourth report from Italy submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

04-30365 (E) 160404

Annex

Letter dated 25 March 2004 from the Chargé d'affaires a.i. of the Permanent Mission of Italy to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

I refer to your request for further information on the third report of the Government of Italy, submitted pursuant to paragraph 6 of resolution 1373 (2001), as requested in your letter dated 29 December 2003.

I have the pleasure to enclose herewith the answers provided by the relevant Italian authorities, including further information under point 1.9 concerning the matter of port security (see enclosure).

(*Signed*) Aldo **Mantovani**
Chargé d'affaires a.i.

Enclosure

CONTRIBUTION OF THE UFFICIO ITALIANO CAMBI AND OF THE MINISTRY OF THE ECONOMY AND FINANCE

The numbering system follows the one used in the 29 December 2003 letter of the CTC Chairman

1.1 It should be specified first of all that the Ufficio Italiano dei Cambi (UIC) and the Italian *Financial Intelligence Unit* (FIU) are not two distinct authorities.

Pursuant to article 151, para. 1 of Law 388 of December 23, 200, the financial intelligence unit, "is established, for Italy, at the Ufficio italiano dei cambi."

The functions of the FIU, pertaining to the reception and investigation of reports of suspicious activities, are performed by the Anti-Money-Laundering Service of the Ufficio Italiano dei Cambi.

With regard to resources, operations in the Anti-Money-Laundering Service are carried out by the Division of Suspicious Activities, Statistical Analyses, International Collaboration, and Law.

Operations are also supported by the Computer Applications and Instruments Service, for computer resources, and by the Legal Office, for judicial-legal assistance.

1.2 There were 30,858 reports of suspicious transactions between September 1, 1997 (when Legislative Decree 153 of May 23, 1997, assigned the duties under review to the UIC) and December 31, 2003.

As of the same date, intermediaries had made 1,778 reports of suspicious transactions by terrorist organizations.

The table below provides some details.

Reports	Filed with UIC	Terrorism	Total filed
1st year (1.9.97 - 31.12.97)	840	-	840
2nd year (1.1.98 - 31.12.98)	2,885	-	3,798
3rd year (1.1.99 - 31.12.99)	3,386	-	3,720
4th year (1.1.00 - 31.12.00)	3,544	-	3,813
5th year (1.1.01 - 31.12.01)	5,222	545	5,936
6th year (1.1.02 - 31.12.02)	6,571	912	7,483
7th year (1.1.03- 31.12.03)	4,947	321	5,268
TOTAL (1.9.97 - 31.12.03)	**27,395**	**1,778**	**30,858**

The UIC also receives from banks and other financial third parties communications pertaining to freezing bank accounts pursuant to EU regulations in the field of international counter-terrorism.

1.3 Incorporation of European Community legislation on anti-money-laundering and *alternative money remittance services*.

With regard to *alternative money remittance services*, the intermediaries that practice this activity, directly or through brokers, were already covered by existing anti-money laundering laws, pursuant to law 197 of 1991 (the so-called "anti-money laundering law) and legislative decree 374 of 25 September 1999.

These regulations were recently confirmed by legislative decree 56 of 20 February 2004, which incorporated into Italian law the second European Community directive (2001/97/CE) on preventing the use of the financial system for the purpose of laundering proceeds from illegal activities. The decree restructures and innovates the legislation by including new targets of anti-money laundering legislation. It thus confirms the requirements of identification, conserving information, and reporting STRs on the basis of subjects included on the Special List of the UIC—created pursuant to Article 106 of the Consolidated Banking Act (which includes businesses that provide money transfer services directly)—and on the basis of subjects in article one of legislative decree 374 of 1999 (including those who act as brokers for money transfer activities).

In the instructions it issued on 10 December 2003, the UIC gave indications on how to report STRs by intermediaries who perform *money transfer* activities, with particular reference to identifying cases that can be linked to the financing of terrorist organizations.

1.4 Not-for-profit Organizations of Social Unity (ONLUS)

The ONLUS Agency, which is regulated by Regulation 329 of 21 March 2001, was installed in 2002. Given its recent establishment, the Agency's structures and tasks are sill in development.

The Agency is a collegial body, consisting of a Chairman and ten advisors appointed by the Prime Minister. It has a streamlined administrative structure.

Each Spring the Agency presents to the Prime Minister a report on the previous year's activities. The general goal of the Agency is to assure uniform and proper compliance throughout Italy with regulations and laws on ONLUS, third parties and non-commercial organizations. The framework of the Agency's activity as well as its attributes, relations with public administrations and powers for the achievement of its goals are defined in Regulation 329 of 21 March 2001. In particularly, the Regulation provides that the Agency shall:

a. exercise powers of guidance, promotion, vigilance and inspection;

b. monitor fund-raising activities and appeals to public trust for the sake of preventing abuse and assuring equal opportunities of access to financial resources;

c. formulate observations and proposals on laws; promote research initiatives; handle the collection, updating and monitoring of data and documents;

d. promote high standards in training and update courses;

e. promote knowledge exchange and forms of collaboration between the Italian realities of organizations, third parties and agencies with similar realities abroad;

f. promote initiatives of collaboration, integration and dialogue between the public administration—particularly local government—and the organizations and agencies;

g. Be consulted as a requirement by other public administrations in administrative proceedings against organizations and agencies.

The activities exercised by the Agency are part of a thorough system of vigilance, without seeking to substitute either inspection by other Offices or the activity of law enforcement agencies.

To this end the Bank of Italy has instructed banks and other financial intermediaries to pay special attention to the activities performed by ONLUS and by non-profit agencies with a view to identifying anomalies linked with the misuse of such organizations for the financing of terrorist activities. This was prompted, in particular, by Special Recommendation 8 of GAFI.

1.8 While in Italy there are no restrictions on the circulation of capital, to implement European community principles and regulations, cross-border movements of cash, negotiable instruments, precious stones and metals worth more than 12.5 thousand euros must be declared to the UIC. The UIC uses the declarations in carrying out its duties to prevent and repress money-laundering and international terrorism at the financial level. They have proven particularly useful in the investigation of STRs and the detection of abnormal financial behavior.

Pursuant to law 7 of 17 January 2000, cross-border movements of gold valued at more than 12.5 thousand euros also has to be declared to the UIC.

In the monitoring of cross-border movements of cash, negotiable instruments and precious stones and their relative controls, the UIC has initiated more than 1.3 thousand penalty proceedings for administrative violations, on which the Ministry of the Economy and Finance imposed approximately 4.4 million euros in fines. In 552 cases the fines levied resulted in total receipts of more than 3.7 million euros.

PROCEEDINGS INITIATED	*PROCEEDINGS WITH FINES*
1,352 Total value of violations claimed: more than 158 million euros Fines imposed: 4,473,830	*552* Receipts for Treasury: 3,711,928

CONTRIBUTION OF MINISTRY OF JUSTICE

In relation to the request for clarification, pursuant to the agreements reached at the coordination meeting held at the Ministry of Justice on 21 January 2004, the following information is communicated.

In response to point 1.5 of the CTC letter of 29 December 2003, the statistics in the possession of the Ministry of Justice are summarized in the attached tables.

It is not possible to specify the average length of criminal court proceedings for terrorist acts (taking into account the requirement that such date include the sentencing phase), since the proper statistics are not available. In particular, the data on the average length of criminal court proceedings cannot be disaggregated on the basis of the crime.

With regard to point 1.6, our legislation on the judiciary places the training and professional updating of magistrates under the exclusive competence of the Upper Council of the Magistracy, also with regard to terrorist investigations and proceedings.

In response to point 1.7, Italian criminal law does not provide for the specific penalty of proscribing terrorist organizations on the basis of their inclusion on lists.

UN Resolution 1373. Statistical data on trials initiated and convictions for terrorist activities.

Year	Trials	Convictions
1992	not available	not available
1993	not available	not available
1994	not available	not available
1995	not available	not available
1996	22	104
1997	19	40
1998	11	33
1999	13	86
2000	18	98
2001	19	77
2002	13	39

Statistical data on proceedings brought against subjects accused of terrorisms or another crime and the number of convictions.

Year	Trials	Convictions
1992	not available	not available
1993	not available	not available
1994	not available	not available
1995	not available	not available
1996	15	41
1997	15	34
1998	10	30
1999	9	67
2000	11	59
2001	17	73
2002	10	22

Number of person prosecuted and convicted for:

TRIALS FOR TERRORIST ACTIVITIES				
	Number of trials pending at the judicial offices as of 31/12 that year	Persons prosecuted	Number of Trials leading to a conviction	Persons convicted
1996	59	337	22	104
1997	56	397	19	40
1998	65	496	11	33
1999	76	567	13	86
2000	73	537	18	98
2001	68	479	19	77
2002	43	254	14	46
2003 (*)	44	296	8	19

(*) as of 30/06/03

TRIALS FOR TERRORIST ACTIVITIES FOR AT LEAST ONE OF THE FOLLOWING CRIMES: 624-628-629-(630)-648 c.p. (activities related to the financing of terrorism)				
	Number of pending trials at the judicial offices as of 31/12 that year	Persons prosecuted	Number of trials leading to a conviction	Persons convicted
2001	14	146	7	54
2002	20	143	4	19
2003 (*)	11	111	2	9

(*) as of 30/06/03

CONTRIBUTION OF THE FINANCE POLICE (GUARDIA DELLA FINANZA), with particular reference to the second tiré of paragraph 1.5: Activities related to the financing of terrorism

1. The following data on STRs linked with the financing of international terrorism was received by the Finance Police between 1/1/2001 and 31/12/2003:

   a. A total of **2,328** reports led to investigations, of which:
      - **1,590** were linked by the UIC to names that could be involved in terrorist activities;
      - **738** were linked to the phenomenon in the early stages of the investigation (conducted by the Special Currency Police Unit of the Finance Police), since it refers to subjects that were allegedly connected to terrorism or natives of "sensitive" countries;

   b. **28** reports of STRs have been made leading to the undertaking of judicial inquiries/criminal proceedings.

   An additional **383** reports of STRs were related to pre-existing criminal proceedings.

2. No specific information is available on the outcomes of the criminal proceedings begun following investigation of STR reports.

CONTRIBUTION FROM THE MINISTRY OF INFRASTRUCTURES AND TRANSPORTATION

In the framework of the Ministry of Infrastructures and Transportation, specific counter-terrorism measures have been issued to safeguard the maritime transportation system from the risk of terrorist attacks.

On the subject of security ships, the General Command of the Port Captaincy Corps issued circular 86/16448 of November 27, 2003, which indicated guidelines for all Port Captaincies to follow in the area of ship security assessment and ship security planning, to assure full compliance with the requirements prescribed by international law (Chapter XI-2 of the SOLAS Convention 74, as modified and the ISPS Code).

These guidelines were further specified in circular 86/72991 of December 2, 2004, signed jointly by the Head of the Department for navigation and air and maritime transportation and by the General Command of the Port Captaincy Corps. The circular lists the measures and procedures that should be observed in risk assessment for naval vessels, the drafting of security plans and the issuing of international certificates.

As for measures concerning port security, in the circular issued on January 1, 2003, the above-mentioned General Command formulated directives addressed to the Maritime Authorities located at ports that do not fall under the jurisdiction of the port authorities, in order to allow timely application of the measures required by the above-mentioned international law.

To incorporate this directive, the same General Command transmitted to all the Maritime Authorities, in circular 82/16974, detailed guidelines relative to risk assessment and the drafting and verification of security plans for port facilities, inviting all Port Captaincies located at the Port Authority ports to work closely with the latter.

Finally, to allow prompt inspections of mercantile ships, many officials from the Port Captaincy have already been certified as Port State Control inspectors, in the framework of an in-depth program to train Corps personnel.